IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

: O R D E R :

Commercial Taxes Officer, Special Circle, Pali
Vs.
M/s Lamuko Steels Pvt. Ltd., Sumerpur
S.B. Civil Sales Tax Revision No.164/2007.

DATE OF ORDER : August 01, 2007

P R E S E N T

Hon'ble Mr. Justice Gopal Krishan Vyas

Mr. Anil Bhansali for the petitioner.

BY THE COURT :

Heard learned counsel for the petitioner.

This revision petition has been filed by the . Commercial Taxes Officer, Special Circle, Pali under Section 86 of the Rajasthan Sales Tax Act, 1994 (in short, "the Act" hereinafter) against the order dated 04.05.2005 passed by the Rajasthan Tax Board in Appeal No.892/2004/Pali, whereby the learned Tax Board dismissed the appeal and upheld the order passed by Deputy Commissioner (Appeals), Commercial Taxes Department dated 05.03.2005.

According to facts of the case, the respondent assessee opted for exemption in terms of notification

dated 29.03.2001 issued by the State Government in exercise of the powers conferred by Section 15 of the Act for assessment year 2001-2002. Taking into account the gross turn-over in the preceding year i.e., 2000-2001, the respondent assessee deposited a sum of Rs.2,400/- on 27.04.2001. However, the second instalment of the exemption fee amounting to Rs.2,400/-, in terms of the notification, was not deposited by the assessee. Accordingly, the assessing officer passed assessment order dated 24.10.2003 for depositing the second instalment of the exemption fee alongwith interest amounting to Rs.972/-.

The respondent dealer went in appeal against the order dated 24.10.2003 and the learned appellate authority Dy. Commissioner (Appeals), Commercial Taxes Department, vide order dated 05.03.2004, remanded the matter to the assessing officer for fresh computation of the exemption fee keeping in view the judgment of the Hon'ble High Court in S.B. Civil Writ Petition No.1526/2000, decided on 21.05.2001. Aggrieved by the said order dated 05.03.2004, the department preferred appeal before the Rajasthan Tax Board, Ajmer.

The learned Tax Board, while relying upon the circular dated 23.01.2003 issued by the Commissioner, Commercial Taxes, whereby circular No.8 dated 12.09.2000 issued earlier was superseded, directed that in view of the decision of the Hon'ble High Court the turn over of the assessee in respect of declared

goods cannot be included while computing liability of exemption fee in view of the new notification issued by the State Government. Accordingly, the learned Tax Board affirmed the order passed by the learned Deputy Commissioner (Appeals) vide judgment dated 04.05.2005.

Having considered the submission of learned counsel for the revenue, I see no warrant for interference in the matter. The circular dated 12.09.2000 was quashed by this Court. In the circumstances, in supersession of circular dated 12.09.2000, the Commissioner, Commercial Taxes Department issued circular Both the authorities below have rightly considered the matter and case has been remanded to the assessing authority with a direction to compute afresh the liability of the dealer to exemption fee in the light of the decision of the High Court in S.B. Civil Writ Petition No.1526/2000.

The revision petition is accordingly dismissed.

(Gopal Krishan Vyas) J.